IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CRIMINAL APPELLATE JURISDICTION
CRIMINAL WRIT PETITION NO.1532 OF 2005

Harvinder Singh Suri ...Petitioner
vs.
Kirnav Enterprises & Anr. ...Respondents

WITH
CRIMINAL WRIT PETITION NO.1533 OF 2005

Harvinder Singh Suri ...Petitioner
vs.
Karan International & Anr. ...Respondents

Mr.H.H.Phonda for Respondent No.1
Ms M.M.Deshmukh, A.P.P. for State

CORAM: A.S.OKA,J.
DATE : SEPTEMBER 5,2005

P.C.:

1. Heard Advocates for the parties. As controversy in both the petitions is more or less similar, reference is made to the facts of Criminal Writ Petition No.1532 of 2005. The Petitioner is an accused in a complaint filed by the respondent No.1 under section 138 of Negotiable Instruments Act, 1881. During the course of trial, an application was taken out by the respondent No.1 under Section 216 of the Code of Criminal Procedure, 1973 for adding the charges. The charges sought to be added are under sections 420, 465, 467, 468, 471, 474 of the I.P.C. By the impugned order the learned Magistrate has allowed the said application.

2. The learned Counsel for the Applicant submitted that

Section 216 of the said Code could not have been invoked as case under Section 138 of the said Act of 1881 is a summons triable case. He submitted that at the fag end of the trial, the Respondent No.1 ought not to have been allowed to add charges. The learned counsel for the Respondent No.1 supported the impugned order.

3. After having heard the Advocates appearing for the parties, I find no error in the impugned order. The learned Judge was justified in exercising the power under Section 216 of the said Code. Even if the complaint for offence under Section 138 of the said Act of 1881 is a summons triable case, Section 259 of the said Code gives power to convert the case into a warrant triable case.

4. Though the learned Magistrate has allowed the application for adding new charges, no prejudice has been caused to the Applicant as the learned Magistrate has observed that a de novo trial will be held for added charges. There is no merit in the Applications and the same are rejected.

JUDGE